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ABSTRACT

This outline of a model student publications code is offered as a sample on which local districts can model a Publications Code of their own. The outline begins with a Preamble which explains First Amendment rights and student rights. It continues with the following sections: I. Statement of Policy; II. Protected Speech; III. Official Student Publications; IV. Editorial Review and Appeals; and V. Local Publications Policy. (NKA)

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This *Model Publications Code* is brought to you by the Journalism Education Association of Northern California, a non-profit organization headquartered in Stockton, CA.

Model Student Publications Code

The second paragraph of Section 48907 of the California State Education code calls for "each governing board" to adopt "a written publications code." Although many school districts have complied with the law in this respect, there are others which have neglected to do so, perhaps partly because no state-wide model exists. The following outline offered by the Central California Scholastic Press Association is provided as a sample on which local districts can model a Publications Code of their own.

Preamble

All Americans are protected in their exercise of freedom of expression by the First Amendment to the Constitution of the United States: "Congress shall make no law... abridging the freedom of speech, or of the press... ." Students in California public schools also are guaranteed the right to exercise freedom of speech and of the press in Section 48907 of the California State Education Code. Accordingly, the Board is committed to upholding the rights of each student to free expression.

I. Statement of Policy

It is the policy of the Board of Education that the newspapers, yearbooks, literary magazines and broadcasts are official, school-sponsored publications and have been established as forums for student expression and as voices in the uninhibited, free and open discussion of issues. Each publication should provide a full opportunity for students to inquire, question and exchange ideas.

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Content should reflect all areas of student interest, including topics about which there may be dissent or controversy.

It is the policy of the Board of Education that student journalists shall have the right and responsibility to determine the content of official student publications in accordance with the standards and procedures adopted by this school district. Thus, the following guidelines have been established for the orderly and equitable handling of issues which may arise. Students who violate these standards, whether or not the publication is sponsored by the school, are subject to appropriate disciplinary actions.

II. Protected Speech

1.0 School officials cannot:

1. ban speech solely because it is controversial, takes extreme, "fringe," or minority opinions, or is distasteful, unpopular or unpleasant.
2. ban the publication or distribution of material relating to sexual issues including, but not limited to, virginity, pregnancy, birth control and sexually-transmitted diseases including AIDS.
3. prohibit criticism of the policies, practices or performance of teachers, school officials, the school itself or of any public officials.
4. cut off funds to official student publications because of disagreement over editorial policy.
5. ban the publication or distribution of materials written by non-students.
6. prohibit the student publications from accepting advertising.
7. prohibit the endorsement of candidates for student office or for public office at any level.

1.1 First Amendment rights of journalists must be fully observed. No overt or covert means shall be employed to restrict student expression except those expressions prohibited by laws and regulations relating to:

1. ***libelous material.*** Libelous statements are provably false and unprivileged statements that do injury to an individual's or business's reputation in the community. If the allegedly libeled party is a "public figure" or "public official" as

defined below, then school officials must show that the false statement was published "with actual malice," *i.e.*, that the student journalists knew that the statement was false, or that they published it with reckless disregard for the truth -- without trying to verify the truthfulness of the statement.

a. a public official is a person who holds an elected or appointed public office.
b. a public figure either seeks the public's attention or is well-known because of personal achievements.
c. school employees are public officials or public figures in articles concerning their school-related activities.
d. when an allegedly libelous statement concerns a private individual, school officials must show that the false statement was published willfully or negligently, *i.e.*, the student journalist who wrote or published the statement has failed to exercise reasonably prudent care.
e. under the "fair comment rule," a student is free to express an opinion on a matter of public interest. Specifically, a student may criticize school policy or performance of teachers, administrators, school officials and other school employees.

2. ***obscenity,*** according to current legal standards

a. the average person, applying contemporary community standards, would find that the publication is obscene, appealing to prurient interests.
b. the publication depicts or describes, in a patently offensive way, sexual conduct.
c. the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

3. ***invasion of privacy.***

4. expression which so incites students as to create a ***clear and present danger*** of the commission ***of unlawful acts*** on school premises or substantial disruption of the orderly operation of the school.

a. disruption is defined as student rioting; or substantial seizures of property; or substantial

student participation in a school boycott, sit-in, walk-out or other related form of activity. Threats of violence are not materially disruptive without some act in furtherance of that threat or a reasonable belief and expectation that the author of the threat has the capability and intent of carrying through on that threat in a fashion not permitting acts other than suppression of speech to mitigate the threat in a timely manner. ***Material that stimulates heated discussion or debate does not constitute the type of disruption prohibited.***

b. for a student publication to be considered disruptive, specific facts must exist upon which one could reasonably forecast that a likelihood of immediate, substantial material disruption to normal school activity would occur if the material were distributed or has occurred as a result of the material's distribution. Mere undifferentiated fear or apprehension of disturbance is not enough; school administrators must be able to show substantial facts that reasonably support a forecast of likely disruption.

c. in determining whether a student publication is disruptive, consideration must be given to the context of the distribution as well as the content of the material. In this regard, consideration should be given to past experience in the school with similar material, past experience in the school in dealing with and supervising the students in the school, current events influencing student attitudes and behavior, and whether there have been any instances of actual or threatened disruption prior to or contemporaneously with the dissemination of the student publication in question.

d. school officials must protect advocates of unpopular viewpoints.

e. "orderly operation of the school" means educational student activity sponsored by the school and includes, by way of example and not by way of limitation, classroom work, library activities, physical education, official assemblies and other similar gatherings, school athletic contests, band concerts, school plays and scheduled in-school lunch periods.

1.2 There shall be no prior restraint of material prepared for official student publications except insofar as the material violates prohibitions in Section II.1.1.

No student publication, including broadcasts, will be reviewed by school administrators prior to distribution or withheld from distribution. Since students have the right to determine the contents of their publications and the responsibility to adhere to professional journalism standards, the school and the school district assume no liability for the contents of any student publication. All student journalists should recognize that with editorial control comes the responsibility to make good decisions and to face the consequences of their decisions.

III. Official Student Publications

1.0 Official student publications are defined as material produced by students in journalism, newspaper, yearbook, literary magazine, broadcast or writing classes, and distributed to the student body either free or for a fee.

1.1 Responsibilities of Student Journalists

Students who work on official student publications determine the content of those publications and are responsible for that content. These students should:

1. determine the content of the student publication
2. strive to produce a publication based upon professional standards of accuracy, objectivity and fair play
3. review material to improve journalistic style, sentence structure, grammar, spelling and punctuation
4. check and verify all facts and verify the accuracy of all quotations
5. in the case of editorials or letters to the editor concerning controversial issues, determine the need for rebuttal comments and opinions and provide space if appropriate
6. be sensitive to the individual's right to privacy and to

ethnic, religious and moral differences
7. avoid discrimination against or favoritism to any group

1.2 Responsibilities of Publications Advisers

Teachers who advise student publications are responsible for supervising the production of the student staff and should:

1. be knowledgeable about the rights and responsibilities of student journalists and keep current with legal issues related to high school publications
2. instruct students in the professional journalism standards of accuracy, objectivity, and fair play as well as teaching journalistic style including sentence structure, grammar, spelling and punctuation
3. encourage students to do thorough research and verify the accuracy of their information
4. be sensitive to the individual's right to privacy and to ethnic, religious and moral differences
5. avoid discrimination against or favoritism to any group

1.3 Adviser Rights and Responsibilities

Journalism adviser(s) within each school shall be responsible for supervising the production of the student staff and for instructing students in professional standards of English and journalism.

However, the adviser is not a censor. No teacher who advises a student publication or broadcast will be fired, transferred, or removed from the advisership by reason of his/her refusal to exercise editorial control over the student publication or to otherwise suppress the protected free expression of student journalists.

IV. Editorial Review and Appeals

1.0 School officials shall have the burden of showing justification without undue delay prior to any limitation of student expression.

1.1 The editors of student publications shall be responsible for the content and editing of material for their publications, subject only to restrictions outlined in Section II.1.1.

1.2 If in the opinion of the student editor, student editorial staff or faculty adviser, material proposed for publication might fall into the category of prohibited material (specified in Section II.1.1), the legal opinion of a practicing attorney or the district's attorney may be sought, and the editor in chief, without undue delay, shall contact and advise the author of the material of the reasons for withholding publication.

1.3 Appeals from the author must be made to the Editorial Review Board within three school days. As soon as possible, but no more than three school days later, the Editorial Review Board shall meet with the author to hear the appeal and render a decision. Within three school days following receipt of this decision, the author may appeal to the Superintendent. Within two school weeks, the Superintendent, or his designee, will review the written file and render a decision.

> **a.** The Editorial Review Board shall consist of the student editorial staff, adviser, principal, publisher of the local paper, student activities director and student body president, or their designated representatives.

1.4 In keeping with the California Shield Provision in Article I, Section 2(b) of the state Constitution, a student connected with student publications shall not be suspended, expelled, reprimanded or disciplined in any way for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the student body.

V. Local Publications Policy

1.0 Each school within this District may establish a Publications Policy in compliance with the District Publications Code, to serve as a guideline for the orderly and appropriate operation of its publications.

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